

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

ORDER
06-CR-0550 (JS)

SANDRA HATFIELD, DAVID H. BROOKS,
PATRICIA LENNEX,

Defendants.

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SEYBERT, District Judge:

The Court's November 13 and November 23 Orders preliminarily recognized certain draft legal memorandums (i.e., those prepared by Nancy Grunberg and Peter Schlam) as privileged. It is not likely that the Court will disturb these findings.

However, it appears from the face of these documents that these drafts were intended, at least originally, to culminate in final submissions to entities (such as DHB's Audit Committee¹) that the Court believes would have been in an adversarial position to Mr. Brooks. Any such final submissions would not be privileged. Accordingly, in assessing any potential prejudice that Mr. Brooks may have suffered due to the Government inadvertently obtaining these draft documents, it is important for the Court to know: (1) whether the Government also obtained copies of the final

¹ The Court is not inclined to accept Mr. Brooks' position that the joint defense agreements he supposedly entered into included protection for these kinds of submissions.

submissions; and (2) how similar these draft documents are to the final submissions. Therefore, by Monday, December 14, 2009, the Government is directed to:

(1) Inform the Court whether it has copies of the final submissions; and

(2) If it does, introduce these final submissions into evidence during the pending evidentiary hearing, ideally through a stipulation reached with Defense counsel.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
December 9, 2009